IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8725 OF 2003

Shri Yashwant Babusaheb Rakshe ..Petitioner

Vs.

1. Shri Kaka Sambhaji Patil
and ors. ..Respondents

Mr. N.J. Patil for petitioner.

Mr. R.V. More for respondent nos.1,2,3(i), 3(ii) & 3(iii).

Mr. Vijay Kelledar for respondent nos.4.1 to 4.5.

**CORAM: B.H. MARLAPALLE, J.**

**Date : June 22, 2006.**

**P.C.:**

1. In this petition filed under Article 227 of the Constitution, the petitioner challenged the order passed on 15/12/1988 by the Additional Collector and Resident Deputy Collector at Sangli in Appeal No.3 of 1987 filed under Section 247 of the Maharashtra Land Revenue Code, 1966. The said order was challenged in Revision Application No.32 of 1989 filed under Section 257 of the Code and the revision was decided by the Additional Commissioner, Pune Division, Pune on

2/4/1991. The reasoning given in the said order, though indicated that the order impugned and passed by the Additional Collector did not call for any interference, the operative part of the order inadvertently indicated that the Revision Application was allowed. Therefore, a review application was filed which was decided on 5/10/1991 by the Additional Commissioner, Pune Division, Pune directing the corrections in the opertive part of the order so as to read "Revision Application is dismissed" instead of "Revision Application is allowed". Thus the order passed by the Additional Collector on 15/12/1988 came to be confirmed. The said order reads as under:-

> " The order of the Sub Divisional Officer Miraj Dn. Miraj is set aside and case is remanded for fresh inquiry to the Tahasildar Tasgaon by giving opportunity to both the parties by following proper procedure. The parties should be informed accordingly. No order as to costs."

2. This remanded inquiry has not yet fructified because of the subsequent proceedings. There is no dispute that the petitioner has become owner of half of the land from Gat No.197 which totally admeasures 3 Hectares and 22 Ares by way of the ownership certificate having been issued in his favour under Section 32M of the Bombay Tenancy and Agricultural Lands Act, 1948 on 6/12/1982. The present respondents 1 to 3 do not dispute the petitioner's half share in the agricultural land located in Gat No.197 and the dispute between the parties is only, whether it is Eastern portion or Western portion and once this half portion is identified, it would not be difficult for the revenue authorities to effect the mutation entries accordingly. It was for these reasons that the Additional Collector directed the Tahasildar to conduct a fresh inquiry regarding the respective possession and then pass an order specifying the boundaries of the respective parties' share and the location.

3. This order passed by the Additional Collector does not call for any interference under the

supervisory powers of this court under Article 227 of the Constitution and the petition is, therefore, rejected. However, it is directed that consequent to the Additional Collector's order dated 15/12/1988 the Tahasildar, Tasgaon shall conduct an inquiry after hearing both the parties and by following the proper procedure, as expeditiously as possible and in any case before 31st December 2006 so that the respective shares are duly marked and the revenue record entries are mutated accordingly.

. The inquiry by the Tahasildar will be conducted without being influenced by the observations made by the Additional Collector on 15/12/1988.

**(B.H. Marlapalle,J.)**